

SUBCHAPTER T : LAKE LAVON

§284.451. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

Commission - The Texas Water Commission.

Executive director - The executive director of the Texas Water Commission.

Holding tank - A vented, watertight tank designed for temporary holding of sewage and is so constructed as to prevent the removal of sewage except by pumping therefrom for delivery to an organized disposal system.

Lake Lavon - The lake created by a dam on the East Fork of the Trinity River in Collin County, Texas.

MSL - The abbreviation for mean sea level.

NTMWD - The North Texas Municipal Water District, the designated agent of the Texas Water Commission for the performance of all licensing functions.

Organized disposal system - Any public or private system for collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a permit issued by the Texas Water Commission.

Private sewage facility - Septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for disposal of sewage other than disposal systems operated under a permit issued by the commission.

Septic tank - A vented, watertight tank which serves as a sedimentation and sludge digestion chamber which is placed between the house sewer and soil absorption field.

Septic tank system - A system for disposing of sewage through soil absorption and consisting of the following components: the house sewer, the septic tank, and the soil absorption field.

Sewage - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

Soil absorption field - That part of the septic tank system consisting of drainage tile and surrounding soil used for the subsurface disposal of septic tank effluent.

Standards - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

Subdivision - A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies or which is required by statute to be so platted and recorded; or any four or more contiguous lots or tracts each of which is less than one acre in size.

§284.452. Regulated Area.

(a) The Lavon Reservoir regulated area is all the area in the Lavon Reservoir Watershed bounded by a line parallel to and 3,000 feet from the 508-MSL line (including the lake bed) measured horizontally away from the reservoir. No sewage facilities of any kind may be constructed or utilized within the regulated area, except private sewage facilities that are licensed or registered in accordance with the terms and conditions of this subchapter, and organized disposal systems or other facilities operating under a valid permit issued by the commission.

(b) If any part of a subdivision lies within the regulated area, the entire subdivision is included within the area for the purpose of this subchapter.

(c) The location and types of private sewage facilities, organized disposal systems, and other disposal facilities existing in or proposed for construction on federally-owned land inside the regulated area shall be recorded with the NTMWD.

§284.453. Licensing Authority Designated.

(a) The NTMWD is hereby designated by the commission as the authority to perform the functions specified in this subchapter. The delegation includes the licensing, investigative, and administrative functions provided herein. The NTMWD shall make semiannual reports to the executive director on actions taken hereunder. The NTMWD is fully empowered by the commission to enforce the regulations contained in this subchapter.

(b) Any person or firm owning sewage disposal facilities within the regulated zone shall permit employees and agents of the NTMWD to make such reasonable inspection of sewage facilities as may be required to determine whether those facilities comply with this subchapter.

(c) The NTMWD may make charges for tests, inspections, issuance of permits, water quality investigating action, and any other functions provided for or required by this subchapter. Any fees charged by the NTMWD for the performance of the functions provided for this subchapter shall include the cost incurred plus cost of administration, overhead and any other required employment of consultants, laboratory, and such other services as may be required to carry out the functions described in this subchapter.

§284.454. Rules Covering Licenses for Septic Tanks in the Regulated Area.

(a) Private sewage facilities to be located in the regulated area after January 29, 1975, must meet the following requirements.

(1) A license for the private sewage facility must be obtained from the NTMWD.

(2) Lots or tracts which will be served by private sewage facilities and which are located in a subdivision that is created subsequent to June 1, 1975, must have a minimum lot size of at least one acre and may be served by a septic tank system provided that the NTMWD finds after

appropriate tests and inspection that the nature of the soils and drainage of the area including sufficient, suitable areas for an alternate absorption field will permit the use of a septic tank. The minimum lot size established by this subchapter pertains to single family housing units. Where multiple family units are involved, the NTMWD shall determine lot size necessary for a septic tank system to function properly.

(b) A lot or tract wholly or partially within the regulated area which is not part of a subdivision may be served by a septic tank system provided the lot or tract in question contains at least one acre and the NTMWD finds after appropriate inspection and tests that the nature of the soil and drainage of the area will permit the use of a septic tank. In making such a determination, the NTMWD shall consider the location of the property, the proposed location of the septic tank system on the property, the nature of the proposed use of the property, the proposed loading of the system and the probable population density of the development in the area together with any other relevant factors. The NTMWD shall require a percolation test to be performed on any lot or tract covered under this section. No license shall be issued for any septic tank system when any part of the system or the property is closer than 300 feet in horizontal distance to an organized disposal system, unless it is shown to the satisfaction of the NTMWD that it is not reasonable for the organized disposal system to provide the service to the lot or tract in question. The NTMWD will require all waste collection systems to be connected to an organized disposal system where such system is feasible.

§284.455. Procedure for Obtaining Approval for a Planned Private Sewage Facility Subdivision.

(a) Any developer or other person interested in or desiring to create a subdivision in which the sewage disposal will be primarily by private sewage facilities must, after filing a plat of such proposed subdivision with the county commissioners court, apply to the NTMWD for approval of the private sewage facilities for the disposal of sewage.

(b) The application shall set forth the name and address of the applicant, the address and location of the subdivision, map or plat showing the boundary lines of the subdivision and the lots within the subdivision and such soil percolation tests results and other data as may be necessary to determine whether private sewage facilities will cause pollution or injury to public health.

(c) The soil percolation tests and all soil borings to determine the minimum soil depth must be certified either by a registered professional engineer or some other person who, in the opinion of the NTMWD, is qualified to make this determination. The NTMWD shall be given an opportunity to witness the tests of the soil as they are conducted. The NTMWD shall locate the test sites. The NTMWD shall determine the number of tests which may be conducted in the subdivision.

(d) The NTMWD shall be provided written results of such investigations and shall make such additional inspections and tests as the NTMWD shall consider necessary at the expense of the developer.

(e) If the NTMWD finds that the subdivision has a lot size of a minimum of one acre and the private sewage facility development would be suitable within the subdivision, it shall so advise the applicant.

(f) If the NTMWD finds that one or more portions of a subdivision is suitable for private sewage facility development and the remainder is not suitable, it may specify those lots which are found suitable and those which are not found suitable. The NTMWD's approval of a subdivision or a part thereof for private sewage facility development shall not constitute a license for private sewage facilities within the subdivision, but shall be the prerequisite for the filing of an application for a license within the subdivision. Each private sewage facility installed within the subdivision must be licensed in accordance with §284.456 of this title (relating to License Procedure for New Private Sewage Facilities).

(g) When the NTMWD has approved the use of private sewage facilities for a subdivision, it shall be the duty of the developer of the subdivision, or his agent or assigns, to notify each buyer of a lot in that subdivision that the commission has promulgated a septic tank regulation to protect the waters of the lake and to notify the buyer that any private sewage facility which might be installed in the subdivision must be licensed by the NTMWD. In the event that this is not given, the NTMWD may revoke its approval of the use of private sewage facilities for all lots in the subdivision which are owned or under the control of the developer, his successors, or assigns.

§284.456. License Procedure for New Private Sewage Facilities.

The following procedures shall govern the issuance of licenses for private sewage facilities within the regulated area.

(1) Application forms may be obtained from the offices of the county judge of Collin County, and from the offices of the NTMWD. The form of the application shall be specified by the NTMWD. In order to initiate an application for a license, the completed application must be filed with the office of the NTMWD. If the property involved is not part of a recorded subdivision, the application shall be accompanied by a map or aerial photograph of sufficient detail to locate clearly the land on which the system will be constructed, with the location of the system shown therein.

(2) Within 60 days after receipt of an application, the NTMWD will direct the applicant to have performed such inspections and tests as may be deemed necessary, which may include percolation tests as provided in the Texas Department of Health's Construction Standards for Private Sewage Facilities, site inspections and other such tests and inspections as the NTMWD may consider appropriate. If the NTMWD approves the application, it shall so notify the applicant who may then proceed with the construction of the private sewage facility in accordance with the plans submitted with the application. If the application is disapproved as submitted, but the NTMWD is of the opinion that a private sewage facility of a different design may be constructed on the property, it shall advise the applicant in writing of the changes necessary to obtain a license.

(3) All private sewage facilities shall be constructed in accordance with plans approved by the NTMWD, and any deviation from the plans must be approved by the NTMWD before construction is completed. The construction of the system shall be subject to inspection by the NTMWD and its agents at all reasonable times, and upon completion of construction but before the system is covered, the NTMWD shall make a final inspection to insure compliance with this

subchapter. The license shall be issued to the applicant by the NTMWD only after all requirements have been met.

§284.457. Term of Licenses.

Licenses for private sewage facilities issued under this subchapter shall be effective for a term of five years. Licenses may be renewed for successive terms of five years if the NTMWD finds that the lot or tract in question may continue to be served by the private sewage facility without causing pollution or injuring public health. Any license issued under this subchapter shall automatically terminate if there is a subdivision of the property served by the private sewage facility, if the property is used for a purpose other than that described in the license, if the loading of the system is significantly increased beyond that stated in the license, or if an organized disposal system is developed to within 300 feet in horizontal distance to any portion of the private sewage facility.

§284.458. Operation and Maintenance.

Private sewage facility licenses under this subchapter shall be operated and maintained in accordance with criteria developed by the Texas Department of Health. All maintenance and servicing of private sewage facilities shall be performed by servicing organizations approved by the NTMWD. All wastes removed from private sewage facilities must be hauled to an organized disposal system for final disposal. Policies for acceptance of all sludge, sewage, or other waste will be established by the owner of the organized disposal system receiving the waste. All private sewage facilities licensed under this subchapter shall be subject to inspection by the NTMWD and its agents at all reasonable times for the purpose of determining compliance with the terms of the license and this subchapter.

§284.459. Existing Private Sewage Facilities.

(a) Every private sewage facility existing within the regulated area on January 29, 1975, is exempt from the licensing provisions of this subchapter if the facility was registered with the NTMWD by January 29, 1976.

(b) The following terms of registration shall apply for existing private sewage facilities.

(1) An existing private sewage facility which is substantially altered or modified or is causing pollution, nuisance, or injury to public health must be licensed in accordance with §284.456 of this subchapter (relating to License Procedure for New Private Sewage Facilities) as if it constituted a new private sewage facility.

(2) A registration issued by NTMWD prior to January 29, 1976, will be transferred to a succeeding owner provided the new owner applies to the NTMWD and pays the appropriate transfer fee.

(3) A registration will be effective for a term of five years. At the end of five years, the system will be reinspected and an inspection fee assessed.

(4) A registration may be renewed for successive terms of five years.

(c) Registration in accordance with this subchapter does not bar any action to abate a nuisance as defined in Texas Civil Statutes, Texas Solid Waste Disposal Act, Article 4477-1. If a system in existence before January 29, 1975, is found to be malfunctioning, the NTMWD shall require licensing in accordance with §284.456 of this title (relating to License Procedure for New Private Sewage Facilities).

§284.460. Exceptions.

The commission intends that the regulations contained in the subchapter be strictly enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in this subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(2) Any person desiring an exception shall file an application with the NTMWD for its analysis of the specific nature of the situation.

(3) The NTMWD shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the NTMWD's decision and may also set out what corrective measures, if any, could be undertaken to achieve licensure.

(4) Exceptions will not be granted which cause potential harm to the quality of the waters in the state.

§284.461. Terms and Conditions of Appeal.

(a) The commission intends that any disputes concerning the application of these sections to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve the problem with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission, who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the commission for its consideration.

§284.462. Enforcement.

(a) Criminal penalty (Texas Water Code, §26.214).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

§284.463. Severability Clause.

If any provision of this regulation or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the regulation and of the application of such provision to other persons and circumstances shall not be affected thereby.

§284.464. Fee Schedule.

The NTMWD shall establish a fee schedule for the private sewage facilities regulatory program around Lake Lavon and maintain a copy of such fee schedule at the NTMWD offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the NTMWD and may, subject to applicable laws, be amended by the NTMWD from time to time.